



*Preserving America's Heritage*

**MINUTES**

**SPRING BUSINESS MEETING**

**ADVISORY COUNCIL ON HISTORIC PRESERVATION**

**MARCH 24, 2016**

**TAMPA, FLORIDA**

ADVISORY COUNCIL ON HISTORIC PRESERVATION

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**MEETING**  
**ADVISORY COUNCIL ON HISTORIC PRESERVATION**  
**Westin Tampa Harbour Island Hotel Ballroom II**  
**Tampa, Florida**  
**March 24, 2016**

**PROVISIONAL AGENDA**

**Call to Order 10:30 a.m.**

- I. Chairman's Welcome
- II. Historic Preservation Policy and Programs
  - A. Building a More Inclusive Preservation Program
    - 1. American Latino Heritage Initiative
    - 2. ACHP Youth Initiatives
  - B. Preservation50 and the ACHP Public Policy Initiative
  - C. Policy Statement for Resilient Communities
  - D. White House Council on Climate Preparedness and Resilience
  - E. Historic Preservation Legislation in the 114th Congress
    - 1. Historic Preservation Fund Reauthorization
    - 2. Historically Black Colleges and Universities Reauthorization
    - 3. African American Civil Rights Network Legislation
    - 4. Preservation Research at Institutions Serving Minorities (PRISM) Act
    - 5. Native American Tourism and Improving Visitor Experience (NATIVE) Act
- III. Section 106 Issues
  - A. Federal Agency Support for SHPOs and THPOs
  - B. Public Involvement in the Section 106 Process
  - C. Fixing America's Surface Transportation (FAST) Act
- IV. ACHP Native American Affairs Committee Activities
- V. New Business
- VI. Adjourn

**IN ATTENDANCE**

**Milford Wayne Donaldson**, Chairman  
**Teresa Leger de Fernandez**, Vice Chairman  
**Terry Guen**  
**Dorothy Lippert**  
**Lynne Sebastian**  
**Robert Stanton**  
**Brad White**

Architect of the Capitol

Represented by:  
**Michelle Kayon**  
Deputy Director,  
Planning and Project  
Management

Secretary of Agriculture

Represented by:  
**Arthur Blazer**  
 Deputy Under Secretary  
 for Natural Resources  
 and Environment

Secretary of Education

Represented by:  
**Ursula Wright**  
 Associate Assistant  
 Deputy Secretary for  
 Special Projects

Secretary of Homeland Security

Represented by:  
**Teresa Pohlman**  
 Director, Sustainability  
 and Environmental  
 Programs

Secretary of the Interior

Represented by:  
**Stephanie Toothman**  
 Associate Director,  
 Cultural Resources,  
 Partnerships, and  
 Science

Secretary of Veterans Affairs

Represented by:  
**Stella Fiotes**  
 Executive Director,  
 Office of Construction  
 and Facilities  
 Management

President, National Conference of State Historic  
 Preservation Officers

**Elizabeth Hughes**  
 Maryland SHPO

Native American Member

**Leonard Forsman**  
 Chairman, Suquamish Tribe

Chairman, National Trust for Historic Preservation

Represented by:  
**Thomas Cassidy**  
 Vice President for  
 Government Relations  
 and Policy

### **OBSERVERS**

General Chairman, National Association of Tribal Historic  
 Preservation Officers

Represented by:  
**D. Bambi Kraus**  
 NATHPO President

President, ACHP Alumni Foundation

**Katherine Slick**  
 Historic Preservation Consultant

In attendance and participating in the meeting were ACHP Executive Director John M. Fowler; Seminole Tribe of Florida Chairman James Billie; and Seminole Medicine Man Bobby Henry.

## **PROCEEDINGS**

### **Chairman's Welcome**

Advisory Council on Historic Preservation (ACHP) Chairman Milford Wayne Donaldson opened the spring business meeting at 10:35 a.m. He asked Vice Chairman Teresa Leger de Fernandez to lead the group in the Pledge of Allegiance. Seminole Medicine Man Bobby Henry gave an invocation. The Department of Veterans Affairs (VA) has the proxy for the General Services Administration (GSA); the Department of Homeland Security (DHS) has the proxy for the Department of Transportation (DOT); the Department of the Interior (DOI) has the proxy for the Department of Housing and Urban Development (HUD); and Lynne Sebastian has the proxy for the Department of Defense (DoD). The agenda was adopted with a motion by Vice Chairman Leger de Fernandez and second by Ursula Wright. Chairman Donaldson appointed Shayla Shrieves recorder for the meeting. He also welcomed Michelle Kayon representing the Architect of the Capitol.

John Fowler reported that Tom McCulloch has been promoted to be the Office of Federal Agency Program's Assistant Director for Federal Property Management. The previous business meeting's minutes were approved with a motion by Robert Stanton and second by Dr. Sebastian.

### **Seminole Agreement Signing Ceremony**

Chairman Donaldson said Section 101(d)(5) of the National Historic Preservation Act (NHPA) authorizes the ACHP to enter into agreements with Indian tribes to substitute tribal historic preservation procedures for the normal Section 106 procedures on tribal lands. The members recently authorized signing an agreement with the Seminole Tribe, and they will now execute the agreement. He invited Chairman James Billie to come to the table for the signing.

Chairman Billie said he appreciated the agreement and told stories about his tribe. Chairman Donaldson recognized the numerous staff from the Seminole Tribal Historic Preservation Office who were in the audience and invited them to join council members and tribal members for a group photo.

Chairman Donaldson mentioned the ACHP's training program and congratulated staff on supporting webinars and broadening the reach of ACHP training.

### **Chairman's Award**

Chairman Donaldson congratulated VA for the award given during Preservation Advocacy Week. He thanked Elizabeth Hughes for hosting the event on March 8. Mr. Fowler said he would like to give out chairman's awards in different venues that would allow for more interaction and a broader audience than the business meeting would afford. He invited council members to offer ideas. Stella Fiotes said the VA was honored by the award, which illustrates an example of multiple partnerships and combination of place and history. It was a prime example of a big success story for the VA.

### **Building a More Inclusive Preservation Program**

Vice Chairman Leger de Fernandez referred to the discussion on the 50th anniversary of the NHPA and said the discussion brought out a lot of different themes regarding the ACHP's desire to build a more inclusive preservation program. She said at the Santa Fe meeting last fall, discussion of place was more central because of the ongoing role that a historic place plays for people's identity in Santa Fe. As a takeaway from the previous day's tour, she said once all of America can celebrate and rejoice around

others' history and heritage, that is when we have arrived. She pointed out how various funding streams can complement each other. She said the ACHP needs to get information out about Section 106 to diverse communities and how the Section 106 process can help with community revitalization.

Chairman Donaldson said an interesting idea from the previous day's presentation was that Tampa was created by one industry that actually blended all the cultures together. He said this is an excellent analogy for the ACHP and what it is trying to do with this effort; there are two more business meetings in this Administration, and he wants to make sure there are clear directions and insights on building a more inclusive preservation program that emerge.

Mr. Fowler said this is the closing event in a series of meetings the ACHP has been doing that are targeted to specific communities. Council members adopted a series of recommendations after the Asian American-Pacific Islander meetings last year, and the agency's goal is to look more broadly at other groups and find commonalities with those recommendations. These will allow the ACHP to better engage all underrepresented communities in the national preservation program. Mr. Fowler suggested that members come to the July business meeting prepared to discuss a series of recommendations on what the ACHP can do to institutionalize the better engagement, recognition, appreciation, and protection of the heritage of different communities. This will involve actions the ACHP can take as well as actions partners might take. He wanted to encourage members to think about what things could be done in a broader sense—better engaging citizens in the processes and programs in place now, and then what should the ACHP be doing related to specific communities. Chairman Donaldson noted that he created a member steering committee, and that group will be actively involved in leading the ACHP in these discussions through the July meeting.

### **Youth Initiatives**

Mr. Stanton said the Communications, Education, and Outreach Committee has developed five strategic goals about engagement of youth throughout the breadth of historic preservation. There are also definitive action items and annual objectives that will be forthcoming. He directed members to the meeting book to review the goals. He said action on this item will crystalize the ACHP's commitment to youth and will reinforce the responsibility council members have to reach out and engage youth. He quoted from famous educator Mary McLeod Bethune before offering his motion to adopt the five-point strategic goal plan. Vice Chairman Leger de Fernandez seconded the motion. It passed unanimously.

Chairman Leonard Forsman said the Native American Affairs Committee is focusing on college level youth first, and hosted a remote lecture with Salish Kootenai College in Montana earlier this month. Spring intern Maia Wikler has helped the ACHP with outreach and planning for involving Native youth in preservation careers among other outreach activities.

### **Preservation50**

Chairman Donaldson mentioned the meeting earlier in the morning about Preservation50. He said he would like to appoint a steering committee to focus on Preservation50 and asked for volunteers. Vice Chairman Leger de Fernandez requested that some of the Minutes from the conversation about Preservation50 be incorporated into the business meeting Minutes. Mr. Fowler said they can be appended to the Minutes.

Dr. Sebastian mentioned the Making Archaeology Public project, which has been an online effort to highlight archaeology projects across the United States during this 50th year of the NHPA. Chairman Donaldson asked council members to view the videos before the next business meeting, as they are entertaining and educational. See <http://preservation50.org/mapp/>.

Mr. Fowler said the ACHP is developing policy recommendations that can be given to the incoming

Administration and Congress, as well as the federal establishment, on how to improve the national historic preservation program for the future. The goal is to have a set of recommendations that can be adopted at the fall business meeting. At the July meeting, the ACHP members should have a substantive discussion about the content of the recommendations. The steering committee will provide member guidance. He asked members to give suggestions about how to get the word out so the ACHP can get better input. He invited them to send him further thoughts and input about the Preservation50 discussion.

Katherine Slick mentioned the status of the Section 106 Success Story project, and also indicated that the Alumni Foundation is working with ACHP staff on collaborative events and a retrospective of preservation policy developed by the ACHP through the 50 years of the NHPA. Members briefly brainstormed new success stories and nomination ideas.

### **Policy Statement for Resilient Communities**

Brad White said the ACHP published the draft policy statement for resilient communities in the *Federal Register* since the last meeting. He discussed some of the revisions in the draft policy statement, including the addition of rural and tribal communities, application of Section 106, and creative mitigation measures. Staff will summarize all the comments received and make appropriate revisions to the draft policy statement. Members will receive a final policy statement for a vote in May.

### **White House Council on Climate Preparedness and Resilience**

Chairman Donaldson said the ACHP has not received a lot of attention on this topic from the Administration. Mr. White noted the Preservation Initiatives Committee had an additional update on progress with the Administration's Council on Climate Preparedness and Resilience (CCP&R). Although the ACHP has communicated with the Council on Environmental Quality (CEQ) on the importance of cultural resources and preservation impacts to the work of the CCP&R, there has not been much response to date. The Preservation Initiatives Committee discussed the opportunity presented to elevate cultural resource issues through the periodic interagency meetings of senior staff to share information on various working groups in which the ACHP is participating. The organizers are looking for agencies to host the meetings as well as inviting suggestions for topics. It may be a way to highlight the importance of cultural resource impacts in climate adaptation activities that would then be reported to the CCP&R.

Mr. White said the staff agreed to work on this approach and also to discuss it with the newly appointed ACHP observer representative from CEQ, Ted Boling, who was formerly in the Solicitor's office at DOI and is familiar with the ACHP. Tom Cassidy recommended that the staff specifically reach out to other agencies through their ACHP representatives. Stephanie Toothman said the National Park Service (NPS) has integrated climate change questions into a couple of key decision points into their own planning. Mr. Cassidy said the National Trust has been handling it at the local level. Ms. Hughes said individual State Historic Preservation Officers (SHPOs) are having to address climate change and sea level rise within their communities, although currently the National Conference of State Historic Preservation Officers (NCSHPO) does not have a comprehensive understanding of what everyone is doing and how they are funding such work. She noted there are models from the Hurricane Sandy recovery funding that could help SHPOs in planning.

Chairman Donaldson said he is trying to figure out how the ACHP can have more impact on the CCP&R. Terry Guen suggested trying to approach the group with a clear set of objectives using language familiar to the environmental engineers so there is easier engagement. Chairman Donaldson suggested teeing this up for the July business meeting. Dr. Toothman suggested taking the NPS's plan, which was not NPS-specific, as a starting point for discussion. She also mentioned the idea of elevation of historic buildings as a result of Hurricane Sandy lessons learned. A historic preservation brief is coming out on this topic.

Mr. Fowler said the CCP&R agency representatives are not necessarily plugged into their preservation

colleagues. He suggested ACHP agency members make connections with the climate change people at their agencies to start educating on the message of preservation. Teresa Pohlman said executive orders require the departments to include an appendix on climate change adaptation and an action plan. Federal agencies need to incorporate historic preservation considerations within those climate change action plans. She said it should be integrated as part of the process, not as a separate consideration, but in the design standards.

Mr. Cassidy said \$40 million in emergency funding after Hurricane Sandy stands as one of the better examples of a response by the preservation community to this problem, utilizing federal funding, capturing success stories of what SHPOs were able to do with that funding, that could make a good case for funding the Historic Preservation Fund (HPF). Ms. Hughes said it is helpful to think about what SHPOs need to be producing to use for outreach. She asked how the NPS would be reporting on how the money was spent.

## **Legislation**

Mr. White mentioned the HPF reauthorization is awaiting action. Also the NPS Centennial Act has become a vehicle for the ACHP's amendments to the NHPA for National Association of Tribal Historic Preservation Officers (NATHPO) membership and the full-time ACHP chairman proposals. Mr. Fowler said the proposal for adding the full-time chairman as an amendment was included in the bill introduced by Chairman Rob Bishop, H.R. 4680. It was the only provision in that bill that was not pertinent to the NPS centennial. There were minor modifications, such as reducing the salary of the full-time chairman as well as modifications in the term of office.

Mr. White said the committee talked about a House version of the Historic Tax Credit Improvement Act of 2015 (H.R. 3846) and a new Senate version (S. 2655) introduced by Senators Ben Cardin and Susan Collins. The Senate bill did not include a provision regarding elimination of functionally related buildings. He suggested Chairman Donaldson put together a task force of three members to receive information regarding the tax bills and make recommendations as to what the ACHP position should be. Mr. Cassidy reminded the group that NPS is working on an analysis, and suggested the completion of the NPS study before establishing an ACHP task force. Dr. Toothman said there have been ongoing conversations about this issue with the development community. Mr. Cassidy said he wanted to see a policy from NPS to respond to. Mr. White said the committee wants to learn about all sides of the issue to have some way of evaluating it, even though the NPS review is not done yet.

Mr. White moved that the ACHP support the following bills—a bill to reauthorize the Historically Black Colleges and Universities Historic Preservation Program (H.R. 295), the U.S. Civil Rights Network Act and African American Civil Rights Network Act (S. 2309/H.R. 3683), and the Native American Tourism and Improving Visitor Experience (NATIVE) Act (S. 1579/H.R. 3477) and direct the chairman to convey to the Congress its support of these bills and the importance of the bills to a more inclusive preservation program. Dr. Toothman seconded it. The motion passed unanimously.

He then moved that the ACHP support the Preservation Research at Institutions Serving Minorities (PRISM) Act (S. 805/H.R. 1541) and direct the chairman to convey to the Congress and the Administration its support of this bill and the importance of building a more inclusive preservation program. Dorothy Lippert seconded it. A roll call vote took place, and the motion passed, under the change in ACHP operating procedures that state an affirmative vote of a majority of those present and voting will pass a motion. The following agencies abstained from this vote: Architect of the Capitol, Departments of Agriculture, Education, Homeland Security, Interior, Veterans Affairs, General Services Administration, Defense, Housing and Urban Development, and Transportation.

Mr. White said language similar to the formerly proposed Military Land bill that would restrict National Register and National Historic Landmark listings for reasons of national security has been introduced

once again as a proposed amendment to the National Defense Authorization Act. He said the ACHP and partners will be tracking that.

### **Native American Affairs Committee Activities**

Chairman Forsman said during the meeting a year ago in San Francisco, a panel of Tribal Historic Preservation Officers (THPOs) talked with council members about the preservation consequences when they are not signatories to Section 106 agreements and asked the ACHP to consider addressing the signatory status of tribes.

The committee and ACHP staff have been looking into the scope of the issue through surveys of tribes and, more recently, of Federal Preservation Officers and SHPOs. He said the results have been interesting and indicate there are very few widespread problems. Instead, the challenges seem to be region-, state-, or office-specific. The committee has directed staff to issue guidance clarifying the ACHP's position on Indian tribes and Native Hawaiian organizations as signatories to agreements. The document would simply compile existing guidance. He has also directed staff to reach out to specific agencies to work out strategies to address some of the challenges.

Chairman Forsman expressed his pleasure at seeing a 101(d)5 agreement signed with the Seminole Tribe. Two such agreements now are in place, with a third one in negotiation. The Native American Affairs Committee thinks it is time for the ACHP to develop procedures for their review. Staff from the Office of General Counsel and Office of Native American Affairs will take on this task. They are planning to develop internal procedures that outline how these agreements are reviewed and the roles of members and staff. And, they will develop external procedures so tribes know what to expect. These procedures could ultimately be the basis for the section reserved in the ACHP's regulations for tribal programs (800.15). He plans to have a rough draft to review for the next teleconference to begin the process and will eventually bring the procedures forward for full member review and action.

At this time Dr. Pohlman, Ms. Guen, Ms. Hughes, and Vice Chairman Leger de Fernandez left the meeting.

Ms. Kraus mentioned NATHPO's involvement in a case of the U.S. Army Corps of Engineers in Oklahoma and a nationwide Programmatic Agreement with the Bureau of Land Management.

### **Section 106 Issues**

Mr. Cassidy said the Federal Agency Programs (FAP) Committee had a lot of discussion about funding for SHPOs and THPOs in the Section 106 process stemming from the Action Plan adopted by the ACHP last July. The work so far has focused on drafting an expanded document that would permit reimbursements for SHPOs and THPOs, and clarify where it is inappropriate to do so. After a final internal review, the guidance will be shared with the NPS to ensure it is consistent with its Grants Manual and existing regulation, and then will go on to the FAP and Native America Affairs committees for their comment.

The FAP Committee also looked at how the public is involved in the Section 106 process. A number of Federal Preservation Officers were involved in the conversation. Generally speaking, these agencies reported that they and others are using a variety of ways to include and inform the public, ranging from public notes in newspapers, websites, and radio announcements, to broader public education efforts, public notices about Section 106 consultation meetings, and the ongoing National Environmental Policy Act requirements. He said an important point made by presenters at the committee meeting and a number of committee members is the need to tailor the outreach and involvement to the size and nature of the undertaking and its potential effects to historic properties.



He was gratified to learn that many agencies already see the ACHP as being very helpful in suggesting ways the public can be involved, and that agencies that have a dedicated liaison with the ACHP have been able to develop these programs with the liaison's assistance perhaps even further than others. And the federal agencies themselves are doing a good job and taking their responsibilities to engage the public seriously. Request for assistance to the ACHP has addressed such things as defining what "the public" is, for the purposes of Section 106 reviews; further disseminating the English and Spanish versions of the *Citizen's Guide to Section 106*; and compiling a list of best practices, including publication of more Section 106 Success Stories.

Dr. Sebastian said it is important to differentiate Section 106 from National Environmental Policy Act when agencies are involving the public and make sure opportunities are known.

Mr. Cassidy continued his discussion about the FAST Act and said the committee is interested in collaborating within the Administration with DOT, DOI, and other stakeholders to make sure the implementation and guidance in the legislation can be as supportive of preservation as it can be. He mentioned the lack of a Presidential memorandum on cultural resource mitigation and said the committee wants to explore whether it should try to get another such memorandum.

Chairman Donaldson thanked staff for planning the tours and discussions the previous day. He appreciated the different perspectives. He said he appreciated the council members voting for the Seminole agreement so it could be presented at this specific meeting. Chairman Forsman said the presence of the Seminole Tribe and the people who came was an expression of their satisfaction with the council actions.

The next meetings will take place in Washington, D.C. July 13-14 and November 30-December 1. The meeting adjourned around 1:30 p.m.